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ALEXANDRIA VA 22312

**MAILED**

**JUL 30 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Peter M. Thule	:	DECISION ON APPLICATION
Application No. 09/972,916	:	FOR
Filed: October 10, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
US 1292/01 (VA)	:	

This letter is in response to the "LETTER OF GOOD FAITH AND CANDOR REGARDING PATENT TERM ADJUSTMENT (PTA)," filed on March 15, 2010. Applicants request review of the initial determination of patent term adjustment. The communication is treated as an application for patent term adjustment under 37 CFR 1.705(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 22, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is seventy-three (73) days (442 days of Office delay reduced by 369 days of applicant delay).

On March 15, 2010, applicants timely submitted the instant application for patent term adjustment.<sup>1</sup>

Applicants request recalculation of the patent term adjustment in connection with the Request for Information filed on September 15, 2005, and the Letter Withdrawing a Notice of Non-Compliant Amendment mailed on October 2, 2007.

37 CFR 1.704(b) states that:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

On September 15, 2005, a Request for Information Under 37 CFR 1.105 (RFI) was mailed. On March 14, 2006, three months and 89 days after the day after the date the RFI was mailed, a reply was filed. Accordingly, pursuant to 37 CFR 1.704(b), a period of reduction of 89 days for applicant delay is warranted.

On September 20, 2007, a reply to a non-final Office action was filed. On September 27, 2007, a Notice of Non-Compliant

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<sup>1</sup> PALM records show that the Issue Fee was received on March 15, 2010.

Amendment was mailed. On October 2, 2007, a Letter Withdrawing a Notice of Non-Compliant Amendment was mailed. On December 12, 2007, a final Office action was mailed in response to the reply filed on September 20, 2007.

As the reply filed on September 20, 2007, was clearly not non-compliant, no reduction for applicant delay in connection with the Notice of Non-Compliant Amendment is warranted. The six (6) day period of reduction for applicant delay will therefore be removed.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** (442 days of PTO delay, reduced by 452 (90 + 29 + 89 + 92 + 91 + 61) days of Applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday  
Date: 7/29/2010

# PALM INTRANET

Time: 14:19:13

## PTA Calculations for Application: 09/972916

Application Filing Date:	10/10/2001	PTO Delay (PTO):	442
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	369
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-83		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	07/29/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		83	
91	02/22/2010	MAIL NOTICE OF ALLOWANCE			
90	02/17/2010	ISSUE REVISION COMPLETED			
89	02/17/2010	DOCUMENT VERIFICATION			
88	02/17/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
87	02/17/2010	CASE DOCKETED TO EXAMINER IN GAU			
86	02/16/2010	NOTICE OF ALLOWABILITY			
85	02/05/2010	DATE FORWARDED TO EXAMINER			
84	01/25/2010	AMENDMENT AFTER FINAL REJECTION			
83	12/01/2009	MAIL FINAL REJECTION (PTOL - 326)			
82	11/24/2009	FINAL REJECTION			
81	09/01/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	09/01/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	78
79	09/13/2009	DATE FORWARDED TO EXAMINER			
78	09/01/2009	RESPONSE AFTER NON-FINAL ACTION		61	75
77	09/01/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
76	09/01/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	04/02/2009	MAIL NON-FINAL REJECTION			
74	03/30/2009	NON-FINAL REJECTION			
73	01/21/2009	DATE FORWARDED TO EXAMINER			
72	12/16/2008	RESPONSE AFTER NON-FINAL ACTION			
70	10/27/2008	MISCELLANEOUS ACTION WITH SSP			

69	08/22/2008	APPEAL BRIEF REVIEW COMPLETE			
68	08/22/2008	DATE FORWARDED TO EXAMINER			
67	08/14/2008	APPEAL BRIEF FILED			
66	08/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	06/11/2008	NOTICE OF APPEAL FILED		91	63
64	06/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	12/12/2007	MAIL FINAL REJECTION (PTOL - 326)			
62	12/10/2007	FINAL REJECTION			
61	09/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	10/02/2007	MAIL OF WITHDRAW OF INFORMAL AMENDMENT NOTICE			
59	10/01/2007	DATE FORWARDED TO EXAMINER			
58	09/26/2007	RESPONSE AFTER NON-FINAL ACTION		6	50
57	10/01/2007	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
52	09/27/2007	MAIL NOTICE OF INFORMAL OR NON- RESPONSIVE AMENDMENT			
51	09/26/2007	DATE FORWARDED TO EXAMINER			
50.1	09/20/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
50	09/20/2007	RESPONSE AFTER NON-FINAL ACTION		92	47
49	09/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	09/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	03/20/2007	MAIL NON-FINAL REJECTION			
46	03/15/2007	NON-FINAL REJECTION			
45	03/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	03/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
42.7	03/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	03/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40	09/15/2005	MAIL MISCELLANEOUS COMMUNICATION TO			

		APPLICANT			
39	09/14/2005	MISCELLANEOUS ACTION WITH SSP			
38	08/29/2005	DATE FORWARDED TO EXAMINER			
37	08/18/2005	AMENDMENT AFTER FINAL REJECTION		29	35
36	08/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	04/20/2005	MAIL FINAL REJECTION (PTOL - 326)			
34	04/18/2005	FINAL REJECTION			
33.7	01/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	31
33	01/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	02/10/2005	DATE FORWARDED TO EXAMINER			
31	01/26/2005	RESPONSE AFTER NON-FINAL ACTION		90	28
30	01/26/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	01/26/2005	WORKFLOW INCOMING AMENDMENT IFW			
28	07/28/2004	MAIL NON-FINAL REJECTION			
27	06/28/2004	NON-FINAL REJECTION			
26	05/04/2004	DATE FORWARDED TO EXAMINER			
25	04/21/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
24	04/21/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	04/28/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
22	04/21/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	02/25/2004	MAIL RESTRICTION REQUIREMENT	442		-1
20	02/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
18	03/05/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
17.7	02/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/22/2002	X-PRE-LEGAL COMPLETE NEW CASE			
15	01/14/2002	PRELIMINARY AMENDMENT			
14	02/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	02/12/2002	APPLICATION DISPATCHED FROM OIPE			
12	02/11/2002	APPLICATION IS NOW COMPLETE			
11	01/14/2002	ADDITIONAL APPLICATION FILING FEES			

10	01/14/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	01/14/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF 3 1/2 INCH DISKETTES IN COMPUTER READ			
8	02/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/14/2001	SEQUENCE ERRORS			
5	11/13/2001	CORRESPONDENCE ADDRESS CHANGE			
4	11/05/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
3	10/19/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	10/10/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/10/2001	INITIAL EXAM TEAM NN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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